



# Brunei and same-sex persecution

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- Brunei, a Muslim-majority former British protectorate in south-east Asia with a population of about 400,000, has started to implement laws that punish homosexuality with death by stoning.
- The new law was announced by the Sultan of Brunei, Hassanal Bolkiah, one of the world's richest leaders, who has held the throne since 1967. He described the implementation of the new penal code as “a great achievement”.
- Brunei has a dual legal system, based on Sharia (Islamic law) and common law. The sultan said: “Both systems will continue to run in parallel to maintain peace and order and preserve religion, life, family and individuals regardless of gender, nationality, race and faith.
- “The [Sharia] law, apart from criminalising and deterring acts that are against the teachings of Islam . . . also aims to educate, respect and protect the legitimate rights of all individuals, society or nationality of any faiths and race.”
- The move has been condemned by the United Nations (UN), whose secretary-general, Antonio Guterres, said: “Human rights are to be upheld in relation to every person everywhere without any kind of discrimination.”

## LGBT DEATH PENALTY

### So is Brunei alone in using Sharia to punish LGBT people?

- A [report](#) in March, 2019, of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), written and collated by Lucas Ramon Mendos, says six of the 193 UN member states impose the death penalty on consensual same-sex sexual acts – three in Asia (Iran, Saudi Arabia and Yemen, all Muslim majority) and three in Africa (Sudan and Somalia, Muslim majority, and Nigeria, a mixture of Muslim and Christian). The death penalty is a possible punishment in five UN member states: Mauritania, the United Arab Emirates, Qatar, Pakistan and Afghanistan, all Muslim majority.
- In addition, 70 UN member states criminalise consensual same-sex sexual act and 68 of them have laws that explicitly criminalise consensual same-sex sexual acts. Two more criminalise such acts de facto, using other laws. Other non-UN member states that criminalise such acts include Gaza, the Cook Islands, and certain provinces in Indonesia.

## OTHER PUNISHMENTS

- According to the ILGA report, 31 UN member states impose up to eight years' imprisonment while another 26 impose jail sentences of between 10 years and life.
- Forty-one states have laws that restrict the possibilities of registering or running non-governmental organisations (NGOs) that deal with sexual orientation issues.

## PROTECTION

- Nine UN member states constitutionally prohibit discrimination on the ground of sexual orientation.
- In addition, 73 have laws prohibiting employment discrimination on the ground of sexual orientation. Of these, 52 have broad legal protections (usually applicable to goods and services, health and education) on the basis of sexual orientation.

## IS THE UN HELPING?

- In its report marking International Day against Homophobia, Transphobia and Biphobia in May, 2017, Irina Bokova, the director-general of the United Nations Educational, Scientific and Cultural Organisation (Unesco), said: "I am deeply concerned by the excessive trivialisation of insults, sexist and homophobic remarks in the media, in everyday life, on social networks, even from political leaders."
- She added that Unesco was "committed to protecting the rights of homosexual and transgender people by drawing across its mandate to advance education, the sciences, culture, communication and information".
- Michelle Bachelet, the UN high commissioner for human rights, said in September, 2018: "The struggle for the rights of LGBTI people is a core part of the human rights struggle. And yet in many parts of the world, members of the LGBTI community continue to be the targets of brutal attacks, many of which are left unpunished."

- “It is essential that we defend and protect the LGBTI community from every kind of violence and discrimination. There should be nothing controversial about stopping people being murdered, or executed by agents of the state, simply because of who they are or whom they love.
- “Tackling extreme violence does not require new norms. LGBTI people are entitled to equal protection and the same rights as everyone else.”
- After the Sultan of Brunei’s announcement on 3 April, 2019, of the harsh new punishments, [Ms Bachelet said](#): “Any religion-based legislation must not violate human rights, including the rights of those belonging to the majority religion, as well as of religious minorities and non-believers.
- “It is vital that the government, religious authorities and a wide range of civil society actors work jointly to uphold human dignity and equality for all. My office stands ready to assist the government of Brunei, using the constructive approach laid out by the faith-based framework of the [Beirut Declaration on ‘Faith for Rights’](#).”

## HUMAN RIGHTS ACTION

- Under international human rights law, [corporal punishment](#) in all its forms, such as stoning, amputation or whipping, “constitutes torture or other cruel, inhuman or degrading punishment, which is prohibited in all circumstances”.
- Stephen Cockburn, deputy director of global issues at Amnesty International, issued a [statement](#) on 3 April, condemning the announcement by Brunei, saying that the new penal code would allow “unspeakably cruel” punishments that had no place in the 21st century.
- He added: “We are alarmed that the code criminalises behaviour that should not be considered crimes at all. The international community must continue to condemn Brunei’s decision to put these cruel penalties into practice.”

## WHAT DOES THE KORAN SAY?

- The idea that homosexuality is a sin, is based on the story of Lot, who appealed to the people of Sodom and Gomorrah to turn away from sin including sexual misconduct. Two male angels came to visit Lot and the residents ‘solicited his guests of him’, widely seen as demanding sex and regarded as an abomination.

- The story has been understood to show that homosexuality is forbidden, but alternative interpretations suggest the story was about rape not consensual sex. See [fact sheet](#)
- Ani Zonneveld, founder and president of [Muslims for Progressive Values \(MPV\)](#) which “advocates for women and LGBTQ rights, for freedom of expression, and of conscience” said: “There’s no punishment for homosexuality in the Koran, nor did Prophet Muhammad ever punish homosexuals or trans folk in his community. It is actually that simple, and the first Muslim country to understand that was Turkey when the Ottoman Caliph decriminalised homosexuality in 1858.”
- On the subject of stoning for illicit sex, Ms Zonneveld said: “That, too, is not prescribed in the Koran. The secondary text that is being used to justify such a law is the ‘hadith,’ a collection of writings compiled 100 years after Prophet Muhammad died, claiming to record what he did and what he said.
- “As you can imagine, there are a lot of tall tales in this collection of writings, which includes the stoning of a Jewish woman for illicit sex as dictated by her religious community at that time. Yes, you read right: Jewish law used for Islamic law.”
- MPV has been working to affirm LGBT rights in the United States and at the United Nations. Ms Zonneveld added: “At the UN, the pushback we get from most Muslim-majority countries is that we are just an American tool propagating a Western agenda.
- “The fact is, much of the Muslim world and Global South never had any discriminatory laws against homosexuality prior to colonisation. It was the Christian colonisers who introduced it to them and, as such, Penal code 377 is an article established across much of the British Commonwealth criminalising consensual homosexual conduct as a ‘carnal intercourse against the order of nature’.
- “It is unfortunate that much of the Muslim society, and the Global South, have now embraced this discriminatory belief as their own with such religious fervour.”

## LEGAL CHALLENGES

- Almost 30 legal challenges against anti-LGBT laws are going through local courts in Botswana, Gambia, Grenada, Guyana, Indonesia, Jamaica, Kenya, Lebanon, Malawi, Malaysia, Namibia, Nigeria, Singapore, Tunisia, the United Arab Emirates, Uganda and Zimbabwe, says the ILGA report. A court is due to rule in May, 2019, on the legality of anti-homosexuality rules in Kenya.
- Sources: The [report](#) of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), March, 2019